

CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, October 17, 2024
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Brian Sheets, Commissioner
Miguel Villafana, Commissioner
Patrick Williamson, Commissioner
Harold Nevill, Commissioner
Matt Dorsey, Commissioner
Geoffrey Mathews, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services
Jay Gibbons, Assistant Director of Development Services
Michelle Barron, Principal Planner
Dan Lister, Principal Planner
Arbay Mberwa, Associate Planner
Emily Bunn, Associate Planner
Amber Lewter, Associate Planner

Chairman Sturgill called the meeting to order at 6:30 p.m.

Commissioner Villafana read the testimony guidelines and proceeded to the first business item on the agenda.

Item 1A:

Case No. CR2022-0022 – Vermaas: The applicant, KM Engineering representing owner Bonnie Vance Vermaas, is requesting a conditional rezone of Parcels R37517 & R37519 from an “A” (Agricultural) Zone to an “R-1” (Single Family Residential) Zone subject to a development agreement restricting development to 13 residential lots. The subject property is located at 9713 Galloway Road, Middleton; also referenced as a portion of the NW ¼ of Section 28, T5N, R2W, Canyon County, Idaho.

On August 15, 2024 the Planning and Zoning Commission continued the case to a date certain of October 17, 2024

MOTION: Commissioner Williamson moved to table case no. CR2022-0022 to a date certain of November 21, 2024, seconded by Commissioner Sheets voice vote, motion carried.

Item 1B:

Case No. CU2023-0018 – Smith: Scott and Denise Smith of Sol Invictus Winery request a conditional use permit to allow a special events facility on Parcel R33774015. The 9.98-acre property is located at 3690 Schmidt Lane, Star; also referenced as a portion of the NE¼ of Section 1, T4N, R2W, BM, Canyon County, Idaho.

On July 18, 2024 the Planning and Zoning Commission continued the case to a date certain of September 5, 2024. On September 5, 2024 the Planning and Zoning Commission continued the case to a date certain of October 17, 2024.

Planner Emily Bunn reviewed the materials that were submitted in regard to legal access and uses on the property.

Commissioner Williamson asked about the tasting room as an accessory use. He indicated that a tasting room is a vital part of a winery. Planner Bunn stated an accessory use is part of the Director's decision and was approved as such. The tasting room was approved as part of the Director's Decision.

Commissioner Nevill asked for clarification on the Director's Decision vs. a special events facility. Planner Bunn clarified the request. Commissioner Nevill asked for information regarding the access. Planner Bunn noted that the recent letter from the applicant's attorney specifies the legal access.

Commissioner Williamson asked for clarification on condition no. 10. Planner Emily Bunn clarified that the dust mitigation was in regard to the driveways. Commissioner Williamson wanted further information in regard to CUP transfer. Planner Emily Bunn stated that the conditions as recommended would just run with the Smith's.

Chairman Sturgill noted for the record those that have signed up to testify and invited a motion to re-open the record to receive testimony.

MOTION: Commissioner Nevill moved, to re-open public testimony specifically in regard to access seconded by Commissioner Matthews.

Commissioner Williamson amended the proposed motion to include discussion regarding conditions of approval 10, 17, and 22. No second.

Roll call vote: 3 in favor and 3 opposed. Motion failed.

DELIBERATION:

Commissioner Sheets discussed the access and the letter dated October 4, 2024 and the finding would be that there was legal access to the property.

Commissioner Nevill discussed testimony at a previous hearing in regard to special events in a residential area.

Commissioner Matthews noted that he would be opposing the special events facility as it is not compatible.

Commissioner Williamson stated he works in the same industry and he felt this could work in a rural residential area. If this is not approved, it may impact the applicant's business. He is in favor.

Commissioner Sheets' main concern was in regard to access, and that has been satisfied. This project is over conditioned in his opinion. The use is already in the area and operating.

Commissioner Dorsey is leaning toward not approving. Events do impact the area with noise.

MOTION: Commissioner Williamson moved to approve CU2023-0018 and adopt the Findings of Fact, Conclusions of Law & Order as written and approve with modifications to conditions. Eliminate condition no. 20, Condition no. 17 would contain landscaping of trees and bushes and to be located on the east side of new production facility, condition no. 10 without requiring a min or max number of dust mitigation

applications, condition no. 22 the condition should just be tied to the business, Sol Invictus. Addition of reference of instrument no. 912753 as part of finding no. 6. Seconded by Commissioner Sheets.

Discussion on Motion:

Commissioner Nevill asked a question in regard to the proposed changes to condition of approval and if they were numbered as the original set of conditions. Commissioner Williamson clarified, yes.

Roll call vote: 2 in favor and 4 opposed. Motion failed.

MOTION: Commissioner Matthews moved to deny CU2023-0018, and modify the Findings of Fact, Conclusions of Law & Order to change the answer to finding no. 4 to state that the use would be injurious to surrounding properties and delete the last sentence in finding no. 4, delete finding no. 5, delete the last sentence in finding no. 7. Revise finding no. 9 to state the special events facility will change the character of the area, and finding no. 10 to say that the special events facility will change the character of the area. Seconded by Commissioner Nevill.

Discussion on Motion:

Commissioner Sheets noted there has not been any discussion regarding what the applicant could do to obtain approval.

Commissioner Matthews stated that he was not sure that there would be anything the applicant could do in regard to the impact the use would have on the surrounding property owners in the area.

Commissioner Nevill suggested a noise mitigation plan that has limits on db levels at property lines.

Roll call vote: 4 in favor and 2 opposed. Motion passed.

Item 2A:

Case No. 2023-0027 – Harris: The applicants, Rick and Laura Harris are requesting a conditional use permit of for a dog kennel on approximately 2.61 acres zoned "A" (Agricultural). The subject property is located at 13979 Hollow Rd. Caldwell, ID, also referenced as Parcel R37812011 a portion of the NW quarter of Section 11, T5N R3W BM, Canyon County, Idaho.

Planner Arbay Mberwa reviewed the Staff Report for the record.

Commissioner Sheets asked about the contact DSD has had with the applicant during this process. Planner Arbay Mberwa stated it was very limited. Commissioner Sheets noted there was limited information provided. Planner Arbay Mberwa requested information be provided and there was a limited response to provide the answers that were needed.

Commissioner Matthews stated there was the need for additional conditions.

Commissioner Nevill asked if the encroachment issue had been cured. Planner Arbay Mberwa stated the fencing would cure the encroachment issue.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

Laura Harris –(Applicant) IN FAVOR – 13979 Hollow Rd. Caldwell, ID 83607

Ms. Harris stated that she has been helping dogs that have been dumped and she is trying to help. Ms. Harris tries to keep barking to a minimum. Ms. Harris notes that she is going through the process with the courts. There is confusion regarding a kennel license permit vs a CUP. Ms. Harris noted there have been several dogs that have left the facility and she is working on finding homes for additional dogs. A fence and gates would be installed.

Commissioner Sheets asked if Ms. Harris had the opportunity to review the findings of fact, and conclusions of law. Commissioner Sheets read the items the applicant could do to attempt to gain approval as staff was recommending denial of the CUP. Commissioner Sheets asked the applicant if the applicant could provide information within 60 days. The applicant stated she could.

Commissioner Nevill asked about changes to the septic system. Ms. Harris was not aware that there were changes required (hair trap). Ms. Harris stated she could and that animal waste was hauled off. Commissioner Nevill asked about the encroachment issue. Ms. Harris stated that the encroachment has been handled at closing. Commissioner Nevill inquired about the perimeter fence. Ms. Harris stated she could provide privacy fencing with time. Commissioner Nevill asked if Ms. Harris breeds dogs, she replied yes.

Commissioner Williamson asked if there were visiting hours on site. Ms. Harris stated no, she generally takes them offsite or facetime due to diseases. Commissioner Williamson asked about noise mitigation and what steps the applicant would take to control noise. Ms. Harris replied, taking the dogs inside and the use of bark collars. She has lived at the location for 4 years. Commissioner Williamson asked how many dogs were on the property now; Ms. Harris replied 45.

Commissioner Matthews asked if the applicant had considered concrete kennel runs. Ms. Harris replied yes, but concrete is expensive.

MOTION: Commissioner Nevill moved to close public testimony on Case CU2023-0027, seconded by Commissioner Dorsey. Voice vote, motion carried.

Commissioner Sheets stated that he did not want to close public testimony as he wanted to table to a date certain to get information from the applicant.

Commissioner Williamson agreed.

Commissioner Nevill **withdrew his motion.**

MOTION: Commissioner Sheets moved to postpone to a date certain of December 19th and no materials would be received by December 6th. Seconded by Commissioner Williamson.

Discussion on the Motion:

Director Minshall clarified the materials deadline.

Commissioner Sheets noted the information needs to be provided from the applicant as it is likely an additional postponement would not be granted.

Roll call vote: 6 in favor, 0 opposed, motion passed.

Item 2B:

Case No. CR2022-0003 – LWD Development: LWD Development, Inc. represented by Borton-Lakey Law is requesting a Conditional Rezone of approximately 72.8 acres from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone – Single-Family Residential) zone on parcels R37624 and R33827. The request includes a Development Agreement to limit residential development to 46 residential lots. The subject properties are located to the northeast of the intersection of Kingsbury Rd and Foothill Rd, Middleton, parcel R33827 is located in the NW ¼ of Section 02, T4N, R2W, BM, Canyon County, Idaho, and parcel R37624 is located in the SW ¼ of Section 35, T5N, R2W, BM, Canyon County, Idaho.

Planner Michelle Barron reviewed the Staff Report for the record.

Commissioner Nevill asked if the property was farmed/ranched in the past. Planner Michelle Barron deferred to the applicant.

Commissioner Williamson noted there were several opposition letters in regard to Kingsbury. Planner Michelle Barron stated the plan was to extend Kingsbury from the north. It was her understanding it was the preference to make the connection of Kingsbury.

Commissioner Sheets asked if staff had the copy of the letter from the school district. Planner Michelle Barron replied yes. Referencing Exhibit D.2, in regard to extension of Willis Rd., is there any coordination with COMPASS and Willis Rd. being used as a collector. Planner Michelle Barron she was unsure and deferred to applicant as she did not receive an updated letter.

Chairman Sturgill asked about school district and capacity and where the information came from. Planner Barron stated it was from Exhibit D.1. Chairman Sturgill asked if the fire district had provided a response time. Planner Barron stated the letter provided did not specify.

Chairman Sturgill affirmed the witnesses to testify.

Testimony:

Nate Mitchell –(Applicant) IN FAVOR – 1470 N. Rookway, Star, ID 83669

Mr. Mitchell stated they do have a design to extend Kingsbury from the north to the south. Individual well and septic systems are proposed for the lots. The subject property is dry land and zoned agricultural. The property has never been farmed. The proposed lots are commensurate with the area and existing subdivisions.

Commissioner Nevill asked if the applicant agreed with the proposed conditions. Mr. Mitchell indicated he agreed with the staff report and conditions. Commissioner Nevill asked what the plan was for fire suppression. Mr. Mitchell replied, fire sprinklers in homes and a note would be on the plat. Commissioner Nevill asked about the ingress/egress of the property. Mr. Mitchell stated there were two points of ingress/egress. Commissioner Nevill asked about the bus stop and where it would be located. Mr. Mitchell stated it would be located at Kingsbury and Lanktree Lane.

Commissioner Dorsey asked how the ½ acre well irrigation could be enforced. Mr. Mitchell stated IDWR enforces that but it could also be written in the CCR's and the HOA could assist with enforcement. Commissioner Dorsey asked what the plan was for fire suppression for the dry ground. Mr. Mitchell stated

that a wildland urban interface plan would be required and written in CCR's.

Commissioner Sheets asked about the water rights and whether or not it has ever had water rights. Mr. Mitchell stated the property has never been watered for agricultural uses.

Commissioner Williamson asked about Willis Rd. Mr. Mitchell noted that Willis is not on the functional classification map.

Commissioner Matthews asked if the children residing in the development would go to Middleton or Star School District. Mr. Mitchell replied, Middleton.

Chairman Sturgill asked if there were any annexations conversations with Middleton or Star. Mr. Mitchell stated extensive conversations were had with both. The likelihood for a path for annexation with either city is small.

Alan Mills – IN FAVOR – PO Box 206, Middleton, ID 83644

Mr. Mills read a letter from Middleton School District into the record (dated October 7th, 2024). Mr. Mills stated that it is highly unlikely that elementary aged children will be within this development due to the price point of the homes within the development. The extension of Kingsbury assists with a four-mile savings by eliminating the need to go around.

Commissioner Sheets asked what Mr. Mills' involvement with the project was. Mr. Mills replied that he is a consultant. Mr. Sheets asked what the price point for the homes would be. Mr. Mills stated a million dollars and up. Mr. Mills indicated that the school district has identified a site for elementary school just south of the property near the intersection of Hwy 44 and Kingsbury.

Commissioner Dorsey asked what happens if Kingsbury is not connected. Mr. Mills stated traffic would have to go north or west.

Commissioner Williamson asked if Kingsbury was connected, more traffic from surrounding neighborhoods will utilize the connection. Will the additional traffic raise concerns on Kingsbury? Mr. Mills stated those issues are everywhere. Mr. Mills discussed the use of impact fees from Highway District 4.

Todd Lakey - IN FAVOR – 12905 Vanecia Ct., Nampa, ID 83651

Mr. Lakey stated the development complies with the zoning ordinance and comprehensive plan. The project matches the character of the area. The property is within the impact area of the City of Star. The area is appropriate for residential development. Mr. Lakey stated the proposed zoning is more appropriate than the existing zoning due to the character of the area. The project is orderly growth and would not take agricultural land out of production. The extension of Kingsbury is a public benefit and is a need, the applicant is providing a large portion of connection, which benefits everyone.

Commissioner Nevill about a fire suppression sprinkler note and whether or not fire hydrants would be better. Mr. Lakey stated that fire sprinklers can also be added to the development agreement. Commissioner Nevill asked if a couple of fire hydrants could be placed within the development to ensure adequate water for fire suppression.

Commissioner Dorsey asked about well water being used for irrigation of more than ½ acre. Mr. Lakey stated that the HOA can help enforce this with IDWR.

Commissioner Sheets asked about the proposed development agreement and what exhibit it was in the record. Planner Barron noted that the language was proposed as part of the Board hearing and the recommendation of proposed conditions was listed in the staff report for the Commission's consideration. Commissioner Sheets would like to see the entire document as part of the package that would go to the Board. Commissioner Sheets stated he did not see anything in the draft conditions of approval in regard to the connectivity of Kingsbury.

Commissioner Williamson asked how much education would IDWR or the developer would need to ensure that the ½ acre irrigation with well water was being adhered to. Mr. Lakey stated that a lot of that could be handled with clarity in the CCR's including the phone number for IDWR.

Commissioner Matthews stated he lives in a development with CCR's, however HOA is reluctant to enforce due to cost. Mr. Lakey replied that IDWR has the primary responsibility to enforce the regulation.

Chairman Sturgill asked why the request was for R-1 rather than R-R. Mr. Lakey stated that the request is consistent with the surrounding area and in line with lot sizes. Discussion ensued regarding school district /capacity.

Nancy Ewald - IN OPPOSITION – 23499 Kingsbury Rd., Middleton, ID 83644

Ms. Ewald is concerned about the connection of Kingsbury. Ms. Ewald is concerned about the increase in traffic with the additional development in the area.

Commissioner Williamson asked if the connection of Kingsbury if done in an alternate fashion rather than straight north and south would alleviate her concerns. Ms. Ewald indicated there would still be increased traffic.

Rick Beery- IN OPPOSITION – 8088 Rustin Rd., Middleton, ID 83644

Mr. Beery stated his home is northwest of the subject property off of Kingsbury Rd. Mr. Beery is concerned about water, traffic, and taxes. Water is a huge concern about the all of the developments going in. Concerned about the increase in traffic and Kingsbury can't handle the load. Development doesn't pay for itself.

Commissioner Nevill asked if any of the developments referenced would be on city services. Mr. Beery said none that he is aware of. The 900-home development was going to dig 2 large wells.

Andrew Arnott- IN OPPOSITION – 8265 Kingsbury Dr., Middleton, ID 83644

Agreed with previous testimony in opposition. Concerned about increased traffic in the area. He felt Rural Residential zoning would be more appropriate. Mr. Arnott questioned who would actually police the irrigation and the ½ acre maximum. Mr. Arnott discussed the additional developments in the area that are being developed which impacts the neighbors with dust and noise. There is not a light at Hwy 44 and Kingsbury and it is already dangerous. Larger lots with metered watering makes more sense.

Alan Laframboise - IN OPPOSITION – 8080 Kingsbury Rd., Middleton, ID 83644

Mr. Laframboise is concerned about his view from his property and his property value. Concerned about traffic, it is already bad. Agreed with previous testimony regarding water.

Nate Mitchell –(Applicant)REBUTTAL – 1470 N. Rookway, Star, ID 83669

Mr. Mitchell addressed fire sprinklers vs. fire hydrants. Middleton/Star fire district both are in favor of sprinklers and are in support of the plat. Enforcement is at the building permit level. If Kingsbury is

connected, it is on the Mid-Star traffic plan to signalize and to improve roads. Mr. Mitchell stated that the bigger developments to the east would be on sewer/ water through Star. Any of the new houses would pay their proportionate share of taxes. Impact fees would be generated from each new home construction (fire and highway). Mr. Mitchell felt that individual wells reduce water usage because people pay attention to their electrical bills. He stated he is happy to discuss Mr. Laframboise's view shed, however, his viewshed is Mr. Mitchell's personal property.

Commissioner Williamson and Mr. Mitchell discussed impact/and mitigation fees and the differences as well as property values.

MOTION: Commissioner Sheets moved to close public testimony on Case CR2022-0003, seconded by Commissioner Matthews. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets began the discussion in regard to the connection of Kingsbury Rd. which prompted an updated school district letter. The request before the P&Z tonight is in regard to a rezone from agricultural to "R-1."

Commissioner Nevill discussed criteria no. 6. The plan to extend Kingsbury is proposed but there is no guarantee. Commissioner Nevill stated without the guarantee of this connection, they don't have adequate access in his opinion. This development may be premature.

Commissioner Sheets discussed by creating the connectivity, there is an issue with Kingsbury and 44. It is already overextended.

Commissioner Williamson stated 46 lots by itself doesn't trigger the traffic impact study and unfortunately, the cumulative impact doesn't trigger one either. He stated that although there are rural residential zoned areas, they were approved when the minimum lot size for R-R was one acre.

Chairman Sturgill directed the conversation to the proposed findings. In regard to criteria 4, and negative impacts to the surrounding areas Commissioner Matthews stated that adding additional homes in the area would impact traffic. This was supported by testimony. In regard to criteria 5, Commissioner Nevill stated that enforcing the water usage may be challenging. The neighbors are concerned about the number of wells being located in the same aquifer. Commissioner Dorsey echoed the concern regarding the lots being irrigated with domestic wells. Commissioner Sheets added would be 23 acres of increased usage as the land does not currently have surface water rights. In regard to criteria 6, the proposed conditional rezone would require significant road improvements. In regard to criteria 8, Commissioner Nevill added that there is evidence in the form of a letter from Middleton School District acknowledges there would be an impact but the extension of Kingsbury is a benefit that offsets that, but there is no guarantee. The first paragraph in that finding needs to be changed to there will be an impact. In regard to fire suppression the applicant provided testimony that fire sprinklers would be provided and would be a note on the plat. Commissioner Dorsey stated without the guarantee of connectivity, it will be challenging for emergency services to get to the property.

MOTION: Commissioner Sheets moved to recommend denial of CR2022-0003 to the Board of County Commissioners, and modify the Findings of Fact, Conclusions of Law & Order to revise findings for criteria 2, a RR vs R1 would be more appropriate, use of septic and individual wells, would cut back on water usage. In regard to criteria 5 and 6, RR is more appropriate, public street improvements would be

required, and criteria 8 will create more students than what the district can absorb. Seconded by Commissioner Matthews.

Discussion on Motion:

Commissioner Dorsey wanted to see more density to assist ag land preservation.

Planer Michelle Barron asked for clarification for the FCOs, Chairman Sturgill provided that for the record.

Roll call vote: 4 in favor and 2 opposed. Motion passed.

3. ACTON ITEM- APPROVAL OF MINUTES

A. September 5, 2024

MOTION: Commissioner Nevill moved to approve the minutes of September 5, 2024, seconded by Commissioner Matthews. Voice vote, motion carried.

4. DIRECTOR, PLANNER, COMMISSION COMMENTS:

Director Sabrina Minshall noted that a copy of the draft bylaws were handed out and will be on next meetings agenda. The APA will be on the 11/7/24 agenda. The Board of County Commissioners also have to form an APA committee by the end of the year. A new principal planner will join the team on December 9th. Discussion ensued regarding development agreements and having a copy provided to the Commission.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 11:25 PM.

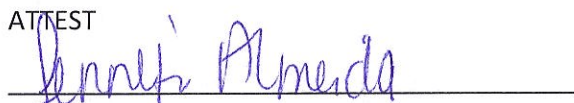
An audio recording is on file in the Development Services Departments' office.

Approved this 5th day of November, 2024



Robert Sturgill, Chairman

ATTEST



Jennifer Almeida – Office Manager